

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 STEVEN DARBY MCDONALD,

11 Plaintiff,

12 v.

13 KENNETH LAUREN, et al.,

14 Defendant.

CASE NO. 3:17-cv-05013-RBL-DWC

ORDER TO SHOW CAUSE

15  
16 Before the Court are four of Plaintiff's Motions Related to Discovery,<sup>1</sup> one Motion  
17 Related to Discovery filed by Defendants,<sup>2</sup> as well as four Motions Unrelated to Discovery.<sup>3</sup> On  
18 January 24, 2017, Plaintiff filed a Notice of Appeal, appealing this Court's Report and  
19 Recommendation and the Honorable Ronald B. Leighton's Order Denying Plaintiff's Motion to  
20 Vacate General Order 09-16. *See* Dkts. 91, 101, 105, 120, 123, 124. General Order 09-16 altered

21  
22 <sup>1</sup> Motion to Compel Discovery Documents (Dkt. 80); Motion to Extend Mandatory Pretrial Discovery and  
Scheduling Order Deadlines (Dkt. 85); Objection to Being Deposed (Dkt. 92); and Motion to Compel Specific  
Documents (Dkt. 93).

23 <sup>2</sup> Motion for Extension of Time to Complete Discovery (Dkt. 88).

24 <sup>3</sup> Amended Motion for Preliminary Injunction (Dkt. 99); Motion to Issue a Show Cause Order to the  
Attorney General's Office for Interfering in Plaintiff's Approved Transfer (Dkt. 107); Rule 72(a) Objection to the  
Order Striking Plaintiff's Legal Face Sheet (Dkt. 108); and Motion to Transfer Case to Portland (Dkt. 129).

1 the discovery procedure in prisoner civil rights cases. *See* General Order 09-16. It was in effect  
2 from December of 2016 to December of 2017 and the Court, because it ordered discovery during  
3 that period, filed a Pretrial Scheduling Order as dictated by the General Order, still binding on  
4 discovery in this case. *See* Dkt. 35. Plaintiff's appeal challenges the General Order and this  
5 Court's Pretrial Scheduling Order, claiming they are contradictory to federal rules and therefore  
6 should be vacated. *See* Dkt. 123.

7 While the filing of an interlocutory appeal does not automatically stay proceedings in the  
8 district court, the district court has broad discretion to decide whether a stay is appropriate to  
9 "promote economy of time and effort for itself, for counsel, and for litigants." *Filtrol Corp. v.*  
10 *Kelleher*, 467 F.2d 242, 244 (9th Cir. 1972) (quotations and citations omitted). "A trial court  
11 may, with propriety, find it is efficient for its own docket and the fairest course for the parties to  
12 enter a stay of an action before it, pending resolution of independent proceedings which bear  
13 upon the case." *Mediterranean Enterprises, Inc. v Ssangyong Corp.*, 708 F.2d 1458, 1465 (9th  
14 Cir. 1983); *Leyva v. Cetrified Grocers of California, Ltd.*, 593 F.2d 857, 863-64 (9th Cir. 1979);  
15 *Ass'n of Irrigated Residents v. Fred Schakel Dairy*, 634 F Supp. 2d 1081, 1094 (E.D. Cal. 2008);  
16 *Jenkins v. Vail*, 2009 WL 3415902 at \*1 (E.D. Wash. Oct. 21, 2009) (staying motion for  
17 summary judgment pending Court of Appeals ruling on order denying temporary restraining  
18 order).

19 Here, the subject of Plaintiff's appeal is the propriety of General Order 09-16, which has  
20 a direct bearing on the scheduling order issued in this case and, therefore, the arguments raised in  
21 the Motions Related to Discovery (Dkts. 80, 85, 88, 92, 93). Because the Ninth Circuit's ruling  
22 on the interlocutory appeal could impact the Court's disposition of five of the nine pending  
23 motions, waiting until the issues on appeal are decided will avoid unnecessary litigation and  
24

1 provide direction to the Court. *See Jenkins*, 2009 WL 3415902 at \*1. Thus, a stay of this matter  
2 pending the Ninth Circuit's decision on appeal would serve the interests of fairness and "promote  
3 economy of time and effort" for the Court and the parties. *Kelleher*, 467 F.2d at 244.

4 Accordingly, the parties are directed to show cause on or before February 23, 2018, why  
5 this matter should not be stayed, pending the outcome of Plaintiff's appeal of the Court's Report  
6 and Recommendation (Dkt. 101) and the District Court's Order Denying Plaintiff's Motion to  
7 Vacate General Order 09-16 (Dkt. 120).

8 The Clerk is directed to re-note all outstanding motions with noting dates earlier than that  
9 (Dkts. 80, 85, 88, 92, 93, 99, 107, 108) to February 23, 2018. Plaintiff's Motion to Transfer Case  
10 (Dkt. 129) should remain noted for consideration on February 23, 2018.

11 Dated this 1st day of February, 2018.

12  
13 

14 David W. Christel  
United States Magistrate Judge  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24